

RUSS AUGUST & KABAT
Benjamin T. Wang (CA SBN 228712)
bwang@raklaw.com
Andrew D. Weiss (CA SBN 232974)
aweiss@raklaw.com
Neil A. Rubin (CA 250761)
nrubin@raklaw.com
Christian W. Conkle (CA SBN 306374)
cconkle@raklaw.com
Daniel B. Kolko (CA SBN 341680)
dkolko@raklaw.com
12424 Wilshire Boulevard, 12th Floor
Los Angeles, California 90025
Telephone: (310) 826-7474
Facsimile: (310) 826-6991

Attorneys for Plaintiff
TS-Optics Corporation

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

TS-OPTICS CORPORATION,

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.

Case No. 8:24-cv-01974-DOC-DFM

**AMENDED JOINT RULE 26(F)
REPORT**

Scheduling Conf.: February 24, 2025
Time: 7:30 a.m.
Courtroom: 10A

1 The parties file this amended Joint Rule 26(f) Report that includes proposed
2 deadlines that have been extended by approximately 30 days as compared to the
3 original Joint Rule 26(f) report. The parties agree to propose these amended dates
4 in view of the continuance of the Scheduling Conference (originally scheduled for
5 January 13, 2024) and the parties' intent to maintain approximately the same
6 proposed schedule relative to the date of the Scheduling Conference. Other than
7 the adjusted proposed dates herein, the Joint Rule 26(f) Report remains identical to
8 the version that was previously filed.

9 Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, Local Rule
10 26-1, and the Court's December 13, 2024 Order Setting Scheduling Conference
11 (D.I. 17), Plaintiff TS-Optics Corporation ("Plaintiff" or "TS-Optics") and
12 Defendant Microsoft Corporation ("Defendant" or "Microsoft") (TS-Optics and
13 Microsoft collectively, the "Parties"), by and through their respective counsel of
14 record, conferred, starting on December 23, 2024, and discussed the various
15 procedural and substantive matters pertinent to the instant litigation and hereby
16 jointly submit this Joint Rule 26(f) Report.

17 **I. SHORT FACTUAL SUMMARY OF THE CASE AND OF**
18 **CLAIMS AND DEFENSES**

19 **A. TS-Optics' Statement**

20 TS-Optics is the owner by assignment of U.S. Patent No. 7,266,055 (the
21 "'055 patent") and U.S. Patent No. 9,612,709 (the "'709 patent").

22 The '055 patent is entitled "Optical pickup actuator and optical disk drive
23 using the same and method." The claims of the '055 parent are related to a novel
24 optical pickup actuator. TS-Optics alleges that Microsoft's XBOX One, XBOX
25 One S, XBOX Series X, and XBOX Series X, and all versions and variations
26 thereof. TS-Optics alleges that each of the accused versions of the XBOX includes
27
28

1 the optical pickup actuator claimed in the '055 patent, including the claimed blade,
2 suspension wires, magnetic element, and coils.

3 The '709 patent is entitled "Mobile terminal-based virtual game controller
4 and remote control system using the same." The claims of the '709 patent are
5 related to a novel system for providing a virtual controller in cloud-based gaming
6 on a touch-sensitive device. Microsoft provides a cloud gaming service called
7 XBOX Cloud Gaming that infringes that claims of the '709 patent by providing a
8 server that enables touch-based, dynamic gaming controls as claimed in the '709
9 patent.

10 Microsoft denies infringement of both patents, and it further asserts that the
11 patents are invalid. Microsoft's answer also includes a number of defenses pled
12 without explanation. TS-Optics denies that the patents are invalid, or that any of
13 Microsoft's defenses are viable.

14 **B. Microsoft's Statement**

15 This is a patent infringement case filed by TS-Optics against Microsoft. TS-
16 Optics alleges that it owns U.S. Patent No. 7,266,055 (the "'055 patent") and U.S.
17 Patent No. 9,612,709 (the "'709 patent") (collectively, "Asserted Patents"). TS-
18 Optics alleges that Microsoft infringes the Asserted Patents by making, selling,
19 using, offering for sale, or importing into the United States certain XBOX products.

20 Microsoft denies that the Asserted Patents are infringed directly or indirectly.
21 The Asserted Patents should also be deemed invalid and/or unenforceable.
22 Microsoft has asserted counterclaims seeking declarations of invalidity and
23 noninfringement.

24 **II. SHORT SYNOPSIS OF THE PRINCIPAL ISSUES**

25 This is an action for patent infringement. The principal issues are likely to be
26 as follows:
27
28

1. Whether Microsoft has infringed any of the asserted claims of the Asserted Patents in violation of 35 U.S.C. § 271;
2. Whether the asserted claims of the Asserted Patents meet the conditions for patentability and satisfy all of the requirements set forth in the provisions of 35 U.S.C. §§ 101, 102, 103, and 112;
3. Whether any of the asserted claims of the Asserted Patents are unenforceable;
4. Whether TS-Optics has standing or all substantial rights to sue on its own behalf;
5. Whether the named inventors are the proper named inventors for the asserted claims of the Asserted Patents;
6. Whether TS-Optics' claims are barred or limited by various doctrines including prosecution history estoppel, license or exhaustion, patent misuse, marking, or equitable doctrines, such as waiver, laches, acquiescence, and/or equitable estoppel;
7. The proper construction of terms in the asserted claims of the Asserted Patents;
8. If any of the asserted claims of the Asserted Patents is infringed and valid, the amount of damages, if any, adequate to compensate TS-Optics for Microsoft's alleged infringement under 35 U.S.C. § 284;
9. Whether attorneys' fees, costs, or expenses are recoverable by either party under 35 U.S.C. §§ 284 and/or 285; and
10. Whether an issuance of a permanent injunction is appropriate under 35 U.S.C. § 283.

III. AMENDMENT OF PLEADINGS

The Parties do not currently anticipate seeking to add additional parties.

1 **IV. ISSUES TO BE DETERMINED BY MOTION**

2 TS-Optics anticipates it may file one or more motions for summary judgment
3 or adjudication at the appropriate time, included motions related to Microsoft's
4 defenses.

5 Microsoft expects to file dispositive or partially dispositive motions, including
6 motions seeking judgments of patent ineligibility, invalidity, and non-infringement,
7 as well as unenforceability, as appropriate and depending on discovery. Microsoft
8 may also file for summary judgment on additional or different issues depending on
9 the discovery obtained, rulings that occur during the case, or other case
10 developments.

11 The Parties believe that resolution of the case will be aided by a claim
12 construction order issued prior to the close of fact discovery. The Parties request that
13 the Court schedule a claim construction hearing, and have proposed the appointment
14 of a special master, as detailed below.

15 The Parties reserve their rights to file any motion pursuant to the Federal Rules
16 of Civil Procedure and/or Local Rules throughout the course of this litigation.

17 **V. STATEMENT REGARDING SETTLEMENT DISCUSSIONS**

18 The Parties have not yet had any settlement negotiations.

19 The Parties agree to conduct formal settlement discussions and agree to
20 mediation before a private mediator in line with Local Rule 16-15.4, ADR Procedure
21 No. 3.

22 **VI. DISCOVERY PLAN**

23 **A. Limitations On Discovery**

24 The Parties agree that discovery need not be phased. The Parties agree
25 on the following limitations for discovery. The Parties further agree that these
26 limitations can be expanded by agreement of the Parties or by Court order.

27 1. *Interrogatories*: The Parties agree that there be a maximum of 25
28

interrogatories per side.

2. *Requests for Production*: The Parties agree that there shall be no limit on the number of Requests for Production.

3. *Requests for Admission*: The Parties agree that each side be able to propound no more than 25 requests for admission. In addition, the Parties agree that each side may propound no more than 75 requests used for the sole purpose of authenticating or stipulating to the admissibility of documents.

4. *Fact Deposition Time*: The Parties agree that each side is entitled to 70 hours of fact deposition time.

5. *Expert Deposition Time*: The Parties agree that expert depositions be limited to a maximum of 7 hours. If an expert submits more than 1 report, such as a report on both infringement/non-infringement and validity/invalidity, the expert may be deposed for 7 hours plus an additional 3.5 hours for each additional report.

6. *Email Discovery*: The parties agree to meet and confer regarding the need for and limits to the discovery of email, if necessary.

While the Parties agree that discovery should take place pursuant to the Federal Rules of Civil Procedure and the Local Rules, the Parties also contemplate and agree to the following: (i) expert discovery will follow the conclusion of fact discovery, as proposed below; and (ii) the Parties shall seek a claim construction order regarding constructions of certain terms in the asserted claims of the Asserted Patents.

VII. TRIAL

The Parties request a jury trial on issues to which a party is entitled to a jury.

TS-Optics proposes the Court's typical timing of ten (10) hours of evidence presentation per side, excluding jury selection, opening statement, and closing argument, is likely to be sufficient based on TS-Optics' present estimation .

Microsoft estimates that fourteen (14) hours of evidence presentation per side, excluding jury selection, opening statement, and closing argument, is likely to be sufficient based on its present estimation.

VIII. OTHER ISSUES AFFECTING MANAGEMENT OF THE CASE

The parties agree to service via email. TS-Optics shall be served at ts-optics@raklaw.com. Microsoft shall be served at MLTS-Optics-Microsoft@morganlewis.com.

The parties propose the appointment of an appropriate technical Special Master for this case. TS-Optics and Microsoft defer to the preference of the Court regarding the identity of the Special Master. Microsoft would not object to the appointment of Mr. David Keyzer for such a role.

IX. PROPOSED, SPECIFIC DATES FOR LITIGATION

The parties propose the following dates:

Event	Parties' Proposal
Fact Discovery Cut-off	January 19, 2026
Opening Expert Reports on issues where the party has burden of proof	February 16, 2026
Rebuttal Expert Reports on issues where the party does not have burden of proof	March 16, 2026
Expert Discovery Cut-off	April 13, 2026
Deadline to file Dispositive and <i>Daubert</i> Motions	April 30, 2026

Deadline to file Oppositions to Dispositive and <i>Daubert</i> Motions	May 14, 2025
Deadline to file Replies in Support of Dispositive and <i>Daubert</i> Motions	May 28, 2025
Final Motion Cut-off – Hearing on Dispositive and <i>Daubert</i> Motions	June 15 2026 at 8:30 a.m.
Final Pretrial Conference	August 10, 2026 at 8:30 a.m.
Trial	August 24, 2026 at 8:30 a.m.

If the Court adopts the proposed use of a Special Master, the Parties agree to jointly submit a separate proposed order with these dates in accordance with the Court's practice in other matters. *See, e.g., Pinn, Inc. v. Apple, Inc.*, Case No. 8:19-cv-1805, Dkt. Nos. 73, 76 (C.D. Cal.); *MGI Dig. V. Duplo USA Corp.*, Case No. 8:22-cv-00979, Dkt. No. 46 (C.D. Cal.). TS-Optics proposes that the parties negotiate any necessary dates as ordered by the Court. Microsoft proposes the following additional dates:

Event	Parties' Proposal
Disclosure of Asserted Claims and Infringement Contentions with Accompanying Document Production	30 days after issuance of scheduling order
Last Day to File Motion to Join Parties or Amend Pleadings absent Leave from the Court	60 days after issuance of scheduling order
Disclosure of Invalidity Contentions and Accompanying Document Production	60 days after issuance of scheduling order

Exchange of Proposed Terms for Construction	July 31, 2025
Exchange of Preliminary Claim Constructions and Extrinsic Evidence	August 14, 2025
Joint Claim Construction and Prehearing Statement	August 21, 2025
Both Parties file Opening Claim Construction Briefs	September 4, 2025
Both Parties file Responsive Claim Construction Briefs	September 18, 2025
Claim Construction Hearing	October 16, 2025 or at the Court's convenience

X. OTHER TOPICS UNDER RULE 26(f)

A. Rule 26(f)(3)(A): Initial Disclosures

The parties agree that disclosures under Fed. R. Civ. P. 26(a)(1) will be due on March 4, 2025.

B. Rule 26(f)(3)(B): Discovery Subjects, Phases Or Limitations, Completion Date

Reserving each Party's right to object to any discovery served by the opposing Party, and without waiver of or prejudice to those rights, the Parties set forth below the subjects on which they currently expect to take discovery:

- (1) prosecution of the Asserted Patents;
- (2) conception and reduction to practice of the claimed inventions of the Asserted Patents;
- (3) the inventorship, ownership, assignment, and/or license of the Asserted Patents;

- (4) construction of any asserted claim of the Asserted Patents;
- (5) validity/invalidity of the Asserted Patents;
- (6) infringement/non-infringement of the Asserted Patents;
- (7) willful infringement;
- (8) Defendant's affirmative and other defenses;
- (9) the extent and appropriate measure of damages (if any); and
- (10) the availability of a permanent injunction.

The Parties agree that the subjects of discovery may ultimately encompass all claims and defenses alleged in the pleadings.

Additional, anticipated discovery by Microsoft includes:

1. The allegations raised in Plaintiff's pleadings;
2. Prior art to the Asserted Patents and the state of the art at the time that applications for the Asserted Patents were filed;
3. Plaintiff's litigation funding, if any;
4. The alleged value of the Asserted Patents;
5. Any purported embodiment(s) of the Asserted Patents, produced by Plaintiff or otherwise;
6. Facts and circumstances related to potential inequitable conduct during prosecution of the Asserted Patents; and
7. The basis for any claims or defenses raised by Plaintiff.

C. Electronic Discovery

The Parties agree that, if necessary, the parties shall negotiate a procedure for email and/or text messages, instant messages or other types of message. The Parties further agree that back-up media are not reasonably accessible. If the parties agree that email discovery or discovery of other electronically stored information ("ESI") is necessary, the Parties will prepare a stipulated order on electronically stored information ("ESI") to be presented to the Court.

D. Privilege And Work Product Issues

The Parties propose that the Parties are not required to log privileged or work product materials related to this litigation created after September 12, 2024, the date TS-Optics filed its original lawsuit.

E. Other Discovery Limitations

The Parties do not believe that any additional limitations on discovery are necessary at this time.

F. Protective Order/ Scheduling Orders Needed

The Parties agree that a protective order is needed in this case. The Parties are negotiating the terms of a protective order and will submit any agreed order and any disputed provisions to the Court for its approval or decision.

XI. OTHER TOPICS UNDER L.R. 26-1

The Parties agree that this case does not constitute complex litigation, and there is no need to utilize the procedures of the Manual for Complex Litigation.

DATED: February 23, 2025

Respectfully submitted,

/s/ Benjamin T. Wang

Benjamin T. Wang (CA SBN 228712)

bwang@raklaw.com

Andrew D. Weiss (CA SBN 232974)

aweiss@raklaw.com

Neil A. Rubin (CA 250761)

nrubin@raklaw.com

Christian W. Conkle (CA SBN 306374)

cconkle@raklaw.com

Daniel B. Kolko (CA SBN 341680)

dkolko@raklaw.com

RUSS AUGUST & KABAT

12424 Wilshire Boulevard, 12th Floor

Los Angeles, California 90025

Telephone: (310) 826-7474

Facsimile: (310) 826-6991

***Attorneys for Plaintiff
TS-Optics Corporation***

/s/ Andrew V. Devkar

Andrew V. Devkar, CA SBN 228809

andrew.devkar@morganlewis.com

MORGAN, LEWIS & BOCKIUS LLP

2049 Century Park East

Suite 700

Los Angeles, CA 90067-3109

Telephone: (310) 907-1000

Facsimile: (310) 907-2000

Natalie A. Bennett (*pro hac vice
forthcoming*)

natalie.bennett@morganlewis.com

MORGAN, LEWIS & BOCKIUS LLP

1111 Pennsylvania Ave. NW

Washington, DC 20004-2541

Telephone: (212) 739-3000

Facsimile: (212) 739-3001

Karon N. Fowler, CA SBN 308145
karon.fowler@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
110 North Wacker Drive, Suite 2800
Chicago, IL 60606-1511
Telephone: (312) 324-1000
Facsimile: (312) 324-1001

***Attorneys for Defendant Microsoft
Corporation***

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Civil Rule 5-3.3 and 5.4.

Dated: February 23, 2025

/s/ Andrew V. Devkar

Andrew V. Devkar

Exhibit A: Schedule of Pretrial and Trial Dates Worksheet

Case No.: 8:24-cv-01974-DOC-DFM			
Case Name: TS-Optics Corporation v. Microsoft Corporation			
Event	Plaintiff's Request <u>month/day/year</u>	Defendant's Request <u>month/day/year</u>	Agreed Upon Date or Court Ordered Date
Jury Trial (Tuesdays at 8:30 a.m.)			August 24, 2026
Est. Length (days)	5 days (10 hours per side of evidence presentation)	14 hours per side of evidence presentation	
Final Pretrial Conference [L.R. 16] (Mondays at 8:30 a.m.)			August 10, 2026
Hearing on Dispositive Motions (Mondays at 8:30 a.m.)			June 15, 2026
Cut-Off Date for All Fact Discovery			January 19, 2026
Deadline for Settlement Conference			June 22, 2026
Initial Expert Disclosure Deadline <i>(if applicable)</i>			February 16, 2026
Rebuttal Expert Disclosure <i>(if applicable)</i>			March 16, 2026
ADR [L.R. 16-15] Settlement Procedure Choice	Private Mediator	Private Mediator	Private Mediator